



[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. FAA-2015-0881]

Interpretation of the Flight Time Limitations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Interpretation

SUMMARY: This action proposes to interpret our regulations to not apply to flight segments that are flown by a flightcrew consisting of only two pilots and no other flight crewmembers.

DATES: Comments must be received on or before [insert date 30 days after publication in the Federal Register].

ADDRESSES: You may send comments identified by docket number FAA-2015-0881 using any of the following methods:

- **Federal eRulemaking Portal:** Go to <http://www.regulations.gov> and follow the online instructions for sending your comments electronically.
- **Mail:** Send Comments to Docket Operations, M-30; US Department of Transportation, 1200 New Jersey Avenue, S.E., West Building Ground Floor, Room W12-140, West Building Ground Floor, Washington, DC 20590-0001.

- Hand Delivery: Take comments to Docket Operations in Room W12-140 of the West Building Ground Floor at 1200 New Jersey Avenue, S.E., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- Fax: (202) 493-2251.

FOR FURTHER INFORMATION CONTACT: Alex Zektser, Attorney, Regulations Division, Office of Chief Counsel, Federal Aviation Administration, 800 Independence Avenue S.W., Washington, DC 20591; telephone: (202) 267-8018 ; email: Alex.Zektser@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to submit written comments, data, or views concerning this proposal. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

The FAA will file in the docket all comments received, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposal. Before acting on this proposal, the FAA will consider all comments received on or before the closing date for comments and any late-filed comments if it is possible to do so without incurring expense or delay. The FAA may change this proposal in light of comments received.

Availability of This Proposed Interpretation

You can get an electronic copy using the Internet by—

- (1) Searching the Federal eRulemaking Portal (<http://www.regulations.gov>);
- (2) Visiting the FAA's Regulations and Policies web page at http://www.faa.gov/regulations_policies/; or
- (3) Accessing the Government Printing Office's web page at <http://www.gpoaccess.gov/fr/index.html>.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM-1, 800 Independence Avenue S.W., Washington, DC 20591, or by calling (202) 267-9680. Make sure to identify the docket number or notice number of this proposal.

Background

The FAA has been asked to provide two legal interpretations regarding the application of 14 CFR 121.521. Specifically, both interpretation requests present scenarios involving supplemental all-cargo part 121 operations that contain at least one international segment and make an election, under 14 CFR 121.513, to operate under the flight time limitations of § 121.515 and §§ 121.521 through 121.525.

Both scenarios involve, in part, at least one segment in which the aircraft would be flown by a flightcrew consisting solely of two pilots and no other flight crewmembers. Both interpretation requests then ask the FAA to determine which specific flight, duty, and rest regulations would apply to these scenarios. Accordingly, the FAA must determine whether 14 CFR 121.521 applies to a flightcrew consisting solely of two pilots. For the reasons discussed below, the FAA proposes to find that § 121.521 does

not apply to any flight segment that is flown by a flightcrew consisting only of two pilots and no other flight crewmembers.

Discussion of the Proposal

Normally, air carriers conducting all-cargo supplemental operations under part 121 must operate pursuant to the flight, duty, and rest provisions of §§ 121.503 through 121.509. However, supplemental air carriers conducting overseas and international all-cargo operations may elect, pursuant to § 121.513, to comply with the flight time limitations of § 121.515 and §§ 121.521 through 121.525 (commonly referred to as the “international rules”).¹

Section 121.521 governs the smallest-size flightcrew that can operate under these international rules. The regulatory text of § 121.521 unambiguously states that this section applies only to a “crew of two pilots and at least one additional flight crewmember.”² Thus, the plain text of § 121.521 states that there must be at least three flight crewmembers in order for § 121.521 to apply: (1) two pilots; and (2) at least one additional flight crewmember. The FAA reaffirmed this plain-text reading of § 121.521 in a 2012 interpretation in which it found that a flightcrew consisting of three pilots would be subject to the provisions of § 121.521.³

Because § 121.521 governs the smallest-size flightcrew that can operate under the international part 121 flight, duty, and rest rules for supplemental all-cargo operations and because § 121.521 only applies to a flightcrew that has at least three flight crewmembers, the FAA proposes to find that § 121.521 does not apply to a flightcrew of

¹ 14 CFR 121.513.

² 14 CFR 121.521(a) (emphasis added).

³ Letter to Timothy Slater from Rebecca MacPherson, Assistant Chief Counsel for Regulations (Sept. 7, 2012) (answer to Question 1).

only two pilots and no other flight crewmembers. Under the proposed interpretation and consistent with the FAA's precedent, a flightcrew of only two pilots in a supplemental part 121 all-cargo operation would be subject to the provisions of § 121.503 and § 121.505, which, among other things, apply to a flightcrew consisting solely of two pilots.

Issued in Washington, DC, on April 1, 2015.

Mark W. Bury,
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[FR Doc. 2015-07991 Filed: 4/9/2015 08:45 am; Publication Date: 4/10/2015]